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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN ALLEN LITTERAL,

Defendant and Appellant.

E053535

(Super.Ct.No. FWV1003157)

OPINION

APPEAL from the Superior Court of San Bernardino County. Jon D. Ferguson,
Judge. Affirmed.

Renee Paradis, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant John Allen Litteral appeals from a jury conviction. We
affirm.

FACTUAL AND PROCEDURAL HISTORY

On December 27, 2010, defendant was charged with unlawfully attempting to drive or take a vehicle. (Penal Code, §§ 10851, subd. (a), 664.) It was also alleged defendant had one prior conviction for driving or taking a vehicle. (Penal Code, § 10851, subd. (a).)

At trial, John Travis testified he owns a business in Ontario that sells truck parts. He first met defendant there several years ago. Defendant would occasionally stop by the shop to use the bathroom or get a drink. Sometime in 2010, defendant asked Travis if he could use a battery charger to start his car, but the vehicle would not start. Travis then gave defendant permission to leave the car on the property where Travis's shop was located. The car was there for several months, and defendant was living in it. At some point, Travis began telling defendant he needed to get his vehicle running and leave the property.

Barbara Williams testified she was visiting a friend's recreational vehicle (RV) on December 22, 2010, and the RV was parked at Travis's truck shop. From the RV, she noticed someone sitting inside Travis's pickup truck and thought it was unusual, so she approached the driver's side of the vehicle to see who it was. As she approached, she saw defendant sitting in the driver's seat of the truck and recognized him as someone she had seen around the shop. Defendant was hunched over the steering wheel tampering with the ignition. She knocked on the window and asked defendant what he was doing. He looked up and appeared startled. She then ran into the shop to tell Travis someone was inside his truck.

Shaun Smith also testified he was at Travis's truck shop on December 22, 2010, and saw defendant hunched over the steering wheel tampering with the ignition. According to Smith, defendant was using pliers or grips to move a metal object that was stuck inside the ignition. Smith approached the vehicle on the passenger side, got into the truck, and asked defendant what he was doing. Defendant told Smith the truck was his and indicated he wanted Smith to go with him for a ride.

Travis came outside and confronted defendant. Defendant hung his head and shook it "no." Travis told defendant to get his stuff and leave the property. Defendant was then seen pushing his motorbike away from the truck shop. Travis called police. When he examined his truck, Travis noticed there was a metal object jammed inside the ignition. He had never given defendant permission to enter or drive the vehicle.

About 10 minutes after defendant left on his motorbike, Williams and Smith saw defendant return to the property and begin to push his other vehicle off of the property. Although Travis had repeatedly asked defendant to remove his vehicle from the property, this was the first time he had seen defendant trying to do so. Smith also testified the vehicle was parked on the property for about six months, and he had never seen defendant trying to move it.

Pursuant to Evidence Code section 1101, subdivision (b), the trial court admitted evidence of a prior incident in which defendant had been found sleeping in a stolen car. The trial court concluded the evidence was admissible, because the manner of theft was similar, so the evidence was relevant to defendant's intent and knowledge.

The jury found defendant guilty as charged. In a separate proceeding, the trial court found the prior conviction allegation to be true.

Through counsel, defendant indicated he wanted to pursue a motion for a new trial. At a hearing on April 5, 2011, counsel advised the court she did not believe there were grounds to support the motion and explained her reasons to the court. Defendant then indicated he wanted a new attorney to be appointed to represent him. As a result, the court held a closed hearing pursuant to *People v. Marsden* (1970) 2 Cal.3d 118 and denied defendant's request for new counsel. At the end of the hearing, defendant stated he would still like to file a motion for a new trial. At the sentencing hearing on May 9, 2011, defense counsel once again advised the court she did not believe there were viable grounds to file a motion for a new trial.

Defendant was sentenced to a total of three years in prison. To reach the total term, the trial court imposed the upper term of two years, plus one year for the prison prior.

DISCUSSION

On May 11, 2011, defendant filed a notice of appeal. We appointed counsel to represent defendant on appeal. Appointed counsel has filed a brief under *People v. Wende* (1979) 25 Cal.3d 436, and *Anders v. California* (1967) 386 U.S. 738, setting forth the facts and procedural history, raising no specific issues, and requesting this court to conduct an independent review of the record.

On February 2, 2012, defendant filed a handwritten letter which we deemed to be a motion to substitute counsel based on ineffective assistance by his appellate counsel.

The motion was denied without prejudice to raising the issues set forth in defendant's handwritten supplemental brief filed February 3, 2012. In his supplemental brief, defendant contends he was falsely convicted based on testimony that was inaccurate or untrue. However, defendant was represented by counsel at trial who had an opportunity to cross-examine each and every witness. The jury simply rejected defendant's version of the events. "[J]urors are the sole and exclusive judges of the effect and value of evidence addressed to them and of the credibility of the witnesses in the case." (*People v. Pell* (1968) 258 Cal.App.2d 379, 384.) Defendant has therefore not presented an arguable ground for relief.

Referring to pages 79 through 85 of jury voir dire, defendant argues one of the juror's was biased, because he had been a victim of a carjacking, was a security guard in a courthouse, and his daughter was a victim of a vehicle theft. However, the juror in question stated unequivocally that he could be fair and impartial. "Courts may properly rely on such statements to determine whether a juror can maintain his or her impartiality after an incident raising a suspicion of prejudice. [Citations.]" (*People v. Harris* (2008) 43 Cal.4th 1269, 1304.) Therefore, defendant has not presented an arguable ground for relief.

Defendant's supplemental brief also indicates he would like to appeal the trial court's denial of his motion for a new trial and request for new trial counsel. In addition, defendant claims he was denied access to a law library. However, defendant has not stated any particular grounds for challenging the trial court's denial of his motion for a new trial and his request for new counsel. Nor has he stated any facts in support of his

claim for denial of access to a law library. We therefore cannot conclude defendant has presented an arguable ground for relief.

We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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MILLER
J.

We concur:

RAMIREZ
P. J.

RICHLI
J.